



**U.S. Department of Justice**

**Environment and Natural Resources Division**

BSG:AML  
DJ No. 90-11-3-1620/2

Environmental Enforcement Section  
P.O. Box 7611 Telephone: (202) 514-4213  
Washington, D.C. 20044-7611 Facsimile: (202) 616-6584

June 26, 2002

**VIA REGULAR MAIL**

**EPA Region 5 Records Ctr.**



**274486**

Michael Snyder  
Shumaker, Loop & Kendrick  
41 S. High Street, Suite 2210  
Columbus, OH 43215  
FAX: 614 463-1108

Re: United States v. Aeronca, Inc. et al.  
Civil Action No. 1:01 CV 00439  
Subpoenas and Notice of Depositions

Dear Mike:

I have enclosed three subpoenas in this matter: one for Mike Tumulty, one for Virgil Bolden, and one for Ed Hoover. Messrs. Tumulty and Hoover have agreed to service by mail, and I know that you are aware of what Mr. Bolden has agreed to. If you could serve these subpoenas and fill out the form on the back for each, I would appreciate it.

I have also enclosed the formal notice of depositions.

Sincerely,

Annette M. Lang  
Trial Attorney

cc (w/ encl): Skinner Service List

Issued by the  
**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF MICHIGAN

DOW CHEMICAL CO., et al

**V.**

ACME WRECKING CO., INC., et al

**SUBPOENA IN A CIVIL CASE**

**CASE NUMBER:** -

C-1-97-0307; C-1-97-0308; C-1-01-439  
(SOUTHERN DISTRICT OF OHIO)

TO: EDWIN T. HOOVER  
9661 DIXIE HIGHWAY  
FAIR HAVEN, MI 48023

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

UNITED STATES ATTORNEYS OFFICE  
211 W. FORT ST., SUITE 2001, DETROIT, MI 48226

07-29-2002  
10:30 a.m.

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): All documents related to the Skinner Landfill, located on the Cincinnati Dayton Road (State Rte. 25) in Butler County, Union Township

PLACE

DATE AND TIME

SAME AS ABOVE

07-29-2002  
10:30 a.m.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Annette M. Lang, Trial Attorney, U.S. Dept. of Justice  
P.O. Box 7611, Ben Franklin Station, Washington, DC 20044-7611 202 514-4213

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

## PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

### (c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in

person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, c

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

#### (B) if a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial. The court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

#### (d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Issued by the  
**UNITED STATES DISTRICT COURT**

SOUTHERN DISTRICT OF OHIO

DOW CHEMICAL CO., et al

**V.**

ACME WRECKING CO., INC., et al

**SUBPOENA IN A CIVIL CASE**

**CASE NUMBER:** -

C-1-97-0307; C-1-97-0308; C-1-01-439

TO: MICHAEL TUMULTY  
5720 GREENLAWN RD  
HAMILTON, OHIO 45011

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY \_\_\_\_\_ COURTROOM \_\_\_\_\_

DATE AND TIME \_\_\_\_\_

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION \_\_\_\_\_ DATE AND TIME 07-24-2002  
LAW OFFICES OF TAFT, STETTINIUS & HOLLISTER  
425 WALNUT ST., SUITE 1800, CINCINNATI, OHIO 45202 8:30 a.m.

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or

objects): All documents related to the Skinner Landfill, located on the Cincinnati Dayton Road (State Rte. 25) in  
Butler County, Union Township

PLACE \_\_\_\_\_ DATE AND TIME 07-24-2002  
SAME AS ABOVE 8:30 a.m.

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES \_\_\_\_\_ DATE AND TIME \_\_\_\_\_

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Annette M. Lang, Trial Attorney, Plaintiff U.S.A.

6/26/02

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Annette M. Lang, Trial Attorney, U.S. Dept. of Justice  
P.O. Box 7611, Ben Franklin Station, Washington, DC 20044-7611 202 514-4213

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

## PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

### (c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in

person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

### (B) if a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial. The court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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Issued by the  
**UNITED STATES DISTRICT COURT**

SOUTHERN DISTRICT OF OHIO

DOW CHEMICAL CO., et al

V.

ACME WRECKING CO., INC., et al

**SUBPOENA IN A CIVIL CASE**

**CASE NUMBER:**

C-1-97-0307; C-1-97-0308; C-1-01-439

TO: VIRGIL BOLDEN  
5314 LACONIA AVE.  
CINCINNATI, OHIO 45237

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PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

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PLACE OF DEPOSITION

DATE AND TIME

07-24-2002

LAW OFFICES OF TAFT, STETTINIUS & HOLLISTER  
425 WALNUT ST., SUITE 1800, CINCINNATI, OHIO 45202

11:30 a.m.

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DATE AND TIME

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ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Annette M. Lang, Trial Attorney, Plaintiff U.S.A.

6/26/02

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Annette M. Lang, Trial Attorney, U.S. Dept. of Justice  
P.O. Box 7611, Ben Franklin Station, Washington, DC 20044-7611 202 514-4213

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

## PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

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DATE

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ADDRESS OF SERVER

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(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in

person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

### (B) if a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial. The court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

THE DOW CHEMICAL CO., et al.,  
Plaintiffs,  
v.  
ACME WRECKING CO., INC., et al.,  
Defendants.  
\_\_\_\_\_  
THE DOW CHEMICAL CO., et al.  
Plaintiffs,  
v.  
SUN OIL COMPANY, d/b/a SUNOCO  
OIL CORP., et al.,  
Defendants.  
\_\_\_\_\_  
UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
AERONCA, INC., et al.  
Defendants.

Notice is hereby given, pursuant to Rule 30 of the Federal Rules of Civil Procedure, that



Plaintiff the United States of America ("United States") and the private plaintiffs in the above-referenced actions will conduct the following depositions at the following times and places:


<u>NAME</u>	<u>DATE &amp; TIME</u>	<u>LOCATION</u>
Dexter Gregory	July 23, 2002; 9:00 a.m.	Taft, Stettinius
Lloyd Gregory	July 23, 2002; 1:30 p.m.	Taft, Stettinius
Michael Tumulty	July 24, 2002; 8:30 a.m.	Taft, Stettinius
Virgil Bolden	July 24, 2002; 11:30 a.m.	Taft, Stettinius
Edwin Hoover	July 29, 2002; 10:30 a.m.	USAO, Detroit

The offices of Taft, Stettinius & Hollister are located at 425 Walnut St., Suite 1800 (reception), Cincinnati, Ohio. The depositions will be conducted on the 20<sup>th</sup> Floor, in the Gamble Room. The United States Attorneys Office in Detroit is located at 211 W. Fort St., Suite 2001, Detroit, MI.

These depositions will be recorded by stenographic means.

Respectfully submitted,

Thomas L. Sansonetti  
Assistant Attorney General  
Environment & Natural Resources Div.  
U.S. Department of Justice

  
ANNETTE M. LANG  
Trial Attorney  
Environmental Enforcement Section  
Environment and Natural Resources  
Division  
United States Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044  
(202) 514-4213

GERALD F. KAMINSKI  
(Ohio Bar No. 0012532)  
Assistant United States Attorney  
Southern District of Ohio  
221 E. Fourth St., Suite 400  
Cincinnati, Ohio 45202  
(513) 684-3711

OF COUNSEL:

CRAIG MELODIA  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26<sup>th</sup> day of June 2002, I caused a true copy of the foregoing NOTICE OF DEPOSITIONS to be served by first-class mail, postage prepaid upon the following counsel of record:

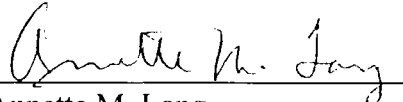
Louis E. Tosi (No. 0019756)  
Michael J. O'Callaghan (No. 0043874)  
Shumaker, Loop & Kendrick  
41 S. High Street, Suite 2210  
Columbus, OH 43215  
Counsel for Contribution Plaintiffs  
Phone: 614 463-9441  
Fax: 614 463-1108

David E. Northrop (No. 0001804)  
Porter Wright Morris & Arthur  
41 S. High St.  
Columbus, OH 43215-6194  
Counsel for Aeronca, Inc.  
Phone: 614 227-2072  
Fax: 614 227-2100

Jonathon Conte (No. 0061249)  
Blank Rome Comisky & McCauley LLP  
PNC Center  
201 E. Fifth St., Suite 1700  
Cincinnati, OH 45202  
Counsel for Clarke Container, Inc. and  
Clarke's Incinerators, Inc.  
Phone: 513 362-8703  
Fax: 513 362-8787

John H. Phillips (No. 0043934)  
Phillips Law Firm, Inc.  
9521 Montgomery Rd.  
Cincinnati, OH 45242  
Counsel for Whitton Container, Inc.  
Phone: 513 985-2500  
Fax: 513 985-2503

Gary Franke (0029793)  
120 E. Fourth St.  
Suite 560  
Cincinnati, OH 45202  
Counsel for Clarke, Inc., Clarke  
Services, Inc., and Richard M. Clarke  
Phone: 513 564-9222  
Fax: 513 564-9990

  
Annette M. Lang